



[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

Docket No. FAA-2013-0944

Proposed Legal Interpretation

AGENCY: Federal Aviation Administration (FAA)

ACTION: Proposed legal interpretation.

SUMMARY: The FAA is proposing to clarify the qualification requirements for the pilot assigned as second in command on a flight in part 121 operations that requires three or more pilots and the pilot who provides relief to the assigned second in command during the en route cruise portion of the flight.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send comments identified by Docket Number FAA-2013-0944 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- Mail: Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.
- Hand Delivery or Courier: Bring comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m.

and 5 p.m., Monday through Friday, except Federal holidays.

- Fax: Fax comments to Docket Operations at 202-493-2251.

FOR FURTHER INFORMATION CONTACT: Sara Mikolop, Attorney, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: 202 267-3073.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration's Office of the Chief Counsel has received multiple requests for a legal interpretation regarding (1) the qualification requirements for both an assigned SIC on a part 121 flight requiring three or more pilots and (2) the qualification requirements for the pilot who relieves the assigned second in command (SIC) during the en route cruise portion of a flight. This proposed legal interpretation addresses the qualification requirements for the assigned SIC and the pilot relieving the assigned SIC. The agency is seeking comments on this proposed legal interpretation because, while the existing interpretations with respect to the requirements of § 121.432(a) are clear, these interpretations may not be consistently applied and the agency is considering whether they are still appropriate.

Part 121 requires a minimum of two pilots for every operation and states that “the certificate holder shall designate one pilot as pilot in command and the other second in command.” See 14 CFR 121.385(c). However, certain part 121 operations require more than two pilots due to the operating rules that address pilot flight duty and rest, limiting the amount of time a pilot may be aloft or at the controls. See 14 CFR part 121, subparts R and S. By assigning one or more additional pilots to a long range flight, a certificate holder can ensure that the assigned pilot in command (PIC) and assigned SIC may each have an opportunity to rest

during the flight if needed or if required to comply with the flight duty and rest requirements of part 121.

In those instances in which a part 121 operation requires three or more pilots, § 121.432(a)¹ establishes additional qualification standards for the assigned SIC. Section 121.432(a) requires a pilot who serves as SIC of an operation that requires three or more pilots to meet all PIC qualification requirements except for PIC operating experience. See Legal Interpretation 1978-27. The agency explained in the preamble to the provision now codified at § 121.432(a) that this provision is not limited to one particular aspect of PIC qualification. See 35 FR 84, 87 (Jan. 3, 1970); Legal Interpretation 1978-27. Rather, it covers broad PIC qualification requirements, inclusive of PIC proficiency checks. See 30 FR 6725, 6725 (May 18, 1965) (requiring the second in command in a crew requiring three or more pilots to complete the same semi-annual proficiency checks as the pilot in command); 34 FR 6112, 6113 (April 4, 1969) (proposing 121.432(c), the predecessor to 121.432(a), to remove the repetitious stating of requirements for the second in command of a crew of three or more pilots); 35 FR 84, 87 (Jan. 3, 1970); Legal Interpretation 1978-27 (discussing regulatory history of § 121.432(a) including requirements for PIC proficiency checks in § 121.441).

The assigned SIC is a required flightcrew member and as such may only leave his or her duty station for purposes of rest during the en route cruise portion of the flight, if relief is

¹ Section 121.432(a) states, “Except in the case of operating experience under § 121.434, a pilot who serves as second in command of an operation that requires three or more pilots must be fully qualified to act as pilot in command of that operation.”

provided by a pilot who meets the requirements identified in § 121.543(b)(3)(ii) to act as SIC of the aircraft during the en route cruise portion of the flight.² See 42 FR 37417, 37420 (July 21, 1977). Once a relief pilot assumes the responsibilities of the assigned SIC, the relief pilot becomes a “required” flightcrew member within the meaning of § 121.543 and must remain at that duty station until relief is provided in accordance with § 121.543(b)(3)(ii).

To relieve the assigned SIC during the en route portion of a flight (the only time the assigned SIC may leave their duty station), a pilot must meet the part 121 SIC qualification requirements, except for the recency of experience requirement in § 121.439 (three takeoffs and landings within 90 days). See § 121.543(b)(3)(ii). In contrast with § 121.432(a), which adds PIC qualification requirements to serve as the assigned SIC in a crew of three or more pilots, the relief pilot requirements in § 121.543(b)(3)(ii) do not identify any additional qualification requirements for service as SIC en route. Accordingly, the pilot relieving the assigned SIC during the en route portion of the flight need not meet the additional SIC qualification requirements identified § 121.432(a).

Finally, the agency notes that § 121.543(b)(3)(ii) does not serve as a substitute for the qualification requirements in §121.432(a), applicable to the assigned SIC of a part 121 operation

² Section 121.543(b)(3)(ii) allows a required flightcrew member to leave the assigned duty station if the crewmember is taking a rest and relief is provided, “In the case of the assigned second in command, by a pilot qualified to act as second in command of that aircraft during en route operations. However, the relief pilot need not meet the recent experience requirements of § 121.439(b).” The agency notes that the requirements for PIC relief are independent from the requirements for SIC relief. Requirements for PIC relief for purposes of rest during the en route cruise portion of the flight can be found in a separate paragraph, § 121.543(b)(3)(i). An assigned PIC may only be relieved by a pilot who holds an ATP and appropriate type rating. See 14 CFR 121.543(b)(3)(i). Further, the PIC relief pilot may be either a fully qualified PIC or an SIC qualified to act as PIC en route. See id. An SIC qualified to act as PIC en route means an SIC who has completed all PIC qualification requirements except for the following: 6-month recurrent training required by § 121.433(c)(1)(iii); the operating experience required by § 121.434; the takeoffs and landings required by § 121.439; the line check required by § 121.440; and the 6-month proficiency check or simulator training required by § 121.441(a)(1). See id.

that requires three or more pilots. Thus, the exception to the recency requirement in § 121.543(b)(3)(ii) applies only to a pilot who relieves the SIC during the en route cruise portion of the flight.

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